

SJ-EXHIBIT 5

U.S. Department of Justice
Drug Enforcement Administration

REPORT OF INVESTIGATION

Page 1 of 16

1. Program Code	2. Cross File Related Files	3. File No. [REDACTED]	4. G-DEP Identifier [REDACTED]
5. By: Jeffrey S Sousa, DI At: Pittsburgh DO	[REDACTED]	6. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
7. <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Requested Action Completed <input type="checkbox"/> Action Requested By:		8. Date Prepared 12-03-2014	
9. Other Officers: DI John Conlon			
10. Report Re: Case Closing (Scheduled Investigation) of HBC SERVICES CO, 601A Meadowlands Blvd, Washington, PA 15031 DEA #RH0389773 [REDACTED]			

SYNOPSIS

On December 2, 2014, pursuant to the Pittsburgh District Office (PGH DO) cyclic workplan for FY 2015, Diversion Investigators (DI) Jeffrey Sousa and John Conlon conducted an on-site regulatory investigation of HBC SERVICES COMPANY, INC., a Division of GIANT EAGLE, INC., located at 601 A Meadowlands Boulevard, Washington, PA 15301.

HBC SERVICE COMPANY, INC. (HBC) (DEA # RH0389773, expiration October 31, 2015, NADDIS [REDACTED]) is registered with DEA as a distributor to handle controlled substances in schedules 3, 3N, 4 and 5. The onsite portion of this investigation began and concluded on December 2, 2014.

This investigation revealed no discrepancies with respect to recordkeeping or security. The audit of controlled substances revealed no overages or shortages.

No further action is required. This case is closed.

11. Distribution: Division	12. Signature (Agent) Jeffrey S. Sousa, DI	13. Date 12-02-2014
District	14. Approved (Name and Title) Kurt G Dittmer, GS	15. Date 12/11/2014
Other [REDACTED]		

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Drug Enforcement Administration

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 2 of 16		
5. Program Code	6. Date Prepared 12-03-2014	

ENCLOSURES

1. DEA-82 - Notice of Inspection
2. PA Dept of Health Drug Distributorship/ Wholesaler Certificates (2pgs)
3. West VA Pharmacy Controlled Substance/ Drug Distributorship Permit (2pgs)
4. State of Ohio Pharmacy Drug Distributorship Certificates (2pgs)
5. DEA Biennial Inventory (2pgs)
6. Closing Inventory
7. Audit Computation Chart
8. HBC NDC Audit Sheets and Sample Detail Reports (77pgs)
9. HBC sample purchase records (14pgs)

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Drug Enforcement Administration

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 3 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

DETAILS

1. BASIS OF INVESTIGATION

On December 2, 2014, pursuant to the Pittsburgh District Office (PGH DO) cyclic workplan for FY 2015, Diversion Investigators (DI) Jeffrey Sousa and John Conlon conducted an on-site regulatory investigation of HBC SERVICES COMPANY, INC., a Division of GIANT EAGLE, INC., located at 601 A Meadowlands Boulevard, Washington, PA 15301.

HBC SERVICE COMPANY, INC. (HBC) (DEA # RH0389773, expiration October 31, 2015, NADDIS [REDACTED]) is registered with DEA as a distributor to handle controlled substances in schedules 3, 3N, 4 and 5. The onsite portion of this investigation began and concluded on December 2, 2014. This investigation was initiated on August 12, 2013, and concluded on December 2, 2014, with a meeting with management.

2. SUBJECT FIRM'S BACKGROUND

HBC (Health and Beauty Care) SERVICE COMPANY, located at 601 A Meadowlands Boulevard, Washington, PA, 15301, is a division of GIANT EAGLE, INC., with corporate headquarters at 101 Kappa Drive, Pittsburgh, PA, 15238. The subject firm distributes general merchandise, health and beauty aids, over-the-counter products containing List I chemicals, and Scheduled III - V controlled substances to approximately 220 Giant Eagle supermarkets located in Pennsylvania, West Virginia, and Ohio. Giant Eagle pharmacies are the subject firm's sole customer base. HBC SERVICE COMPANY had \$157,000,000 dollars in sales during 2014, of which controlled substances accounted for less than one percent.

HBC was approved as a drug distributor in 2009 and issued DEA registration number RH0389773 under DEA file number [REDACTED]. This registration expires on October 31, 2015. HBC was the subject of its first regulatory inspection/cyclic investigation in May 2011, and documented under DEA file number [REDACTED]. The result of this investigation revealed minor recordkeeping violations (an overage due to computer software malfunction). HBC was the subject of regulatory /cyclic investigation in

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U.S. Department of Justice
Drug Enforcement Administration

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 4 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

August 2013, under file number [REDACTED] resulting in no discrepancies or violations uncovered.

HBC is also registered with DEA as a distributor of List I chemicals under DEA Registration Number 001753HVV. The subject firm was the subject of in-depth chemical regulatory/cyclic investigations in 2002 [REDACTED] 2004 [REDACTED], 2008 [REDACTED], and 2014 [REDACTED] No violations were uncovered during these investigations.

HBC is licensed with the Commonwealth of Pennsylvania, Department of Health, as a distributor of prescription medicine, Certificate Number 3000008128, which expires on March 31, 2015 (ENCLOSURE #2). HBC is licensed with the State of West Virginia, Board of Pharmacy as a wholesale drug distributor under license number WD0558704, which expires on June 30, 2015 (ENCLOSURE #3). HBC is licensed with the State of Ohio, Board of Pharmacy as a distributor of controlled substances under ID Number WCSW 2458 0464. This registration expires on June 30, 2015 (ENCLOSURE #4).

3. PERSONS INTERVIEWED AND INDIVIDUAL RESPONSIBILITIES

On December 2, 2014, Investigators Sousa and Conlon presented their credentials and a Notice of Inspection (DEA Form 82) (ENCLOSURE #1) to Robert KUTCHA, HBC Inventory Manager, for the subject firm. KUTCHA read and signed the DEA Form 82, giving his consent for the inspection to proceed. KUTCHA stated that he is responsible for the subject firm's inventory operations, with respect to controlled substances and List I chemicals. Matt ROGOS, Operations Manager, KUTCHA and Christy HART, HBC Senior Coordinator Pharmacy Operations, provided all the necessary records and information required to conduct this investigation.

4. PRINCIPALS OF THE FIRM

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Drug Enforcement Administration

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 5 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

Lora Karet, President and COO

Joe Hurley, Senior VP of Distribution

Carmen Ford, VP of Distribution

Matthew Rogos, Distribution Operations Manager

INVESTIGATIVE NOTE: Larry Balduf (Senior VP of Distribution) and Robert Schreck (VP of Distribution) retired from HBC in 2012.

NADDIS queries on these individuals did not reveal any negative information.

5. SCOPE OF INVESTIGATION

The on-site portion of the investigation commenced on December 2, 2014, and concluded on December 2, 2014, with a meeting with management.

An accountability of Butalbital (Schedule IIIN, drug code 2100) Zopiclone (Eszopiclone) (Schedule IV, drug code 2784) 1mg tab and 2mg tab, Flurazepam (Schedule IV, drug code 2767) 15mg and 30mg cap, and Lorazepam (Schedule IV, drug code 2885) 1mg tab, was conducted for the period June 30, 2014 (BOB), through December 1, 2014 (COB).

The results of this audit are listed below and documented on the attached computation chart (ENCLOSURE #7). This accountability audit revealed no discrepancies. (All figures are in number of bottles/containers)

HBC SERVICES

DEA # RH0389773

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Drug Enforcement Administration

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		3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 6 of 16		6. Date Prepared 12-03-2014	
5. Program Code			

Initial Inventory BOB 6/30/2014
Date:
Closing Inventory COB 12/1/2014
Date: DATE 12/2/2014

Drug Name, Strength, Form	Initial Inventory	Received	Total Accountable For	Closing Inventory	Distributed / Transferred	Total Accounted For	Total Difference	% Difference
Butabital/asp/cap	89	576	665	106	559	665	0	0.00%
Eszopiclone 1mg tab	20	192	212	40	172	212	0	0.00%
Eszopiclone 2mg tab	125	288	413	64	349	413	0	0.00%
Flurazepam 15mg cap	19	72	91	15	76	91	0	0.00%
Flurazepam 30mg cap	17	24	41	13	28	41	0	0.00%
Lorazepam 1mg tab	291	1,584	1,875	296	1579	1,875	0	0.00%

6. RECORDKEEPING

Biennial Inventory:

A biennial inventory, as required by Title 21 C.F.R. 1304.11 (c), was taken by the subject firm on Nov. 1, 2014. (ENCLOSURE #5)

Initial Inventory:

The figures for the initial inventory portion of the audit were taken from the firm's "NDC Audit Item Inventory" report dated June 30, 2014. Among other internal data, this computer-generated report captures the date, drug name, strength, bottle size, and quantity on hand for each controlled substance. ROGOS provided these figures as factual for the purposes of the audit's initial inventory. These records were maintained in accordance with the requirements set forth in Title 21 C.F.R. 1304.11.

Closing Inventory:

On December 2, 2014, DIs Sousa and Conlon conducted a physical count, closing inventory, which was witnessed by HART. This physical count was

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U.S. Department of Justice
Drug Enforcement Administration

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 7 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

compared against the subject firm's "Item Inquiry" report which is a daily control substance inventory report, sorted by item number associated with each separate controlled substance. Among other internal data, this computer-generated report captures the date, time, drug name, strength, bottle size, and quantity on hand for each controlled substance. These figures were compared against the actual physical count and no discrepancies were found. These records were maintained in accordance with the requirements set forth in Title 21 C.F.R. 1304.11.

Receiving/Purchasing Records:

The subject firm's purchase records are documented via the original purchase invoices from the drug suppliers, which are physically maintained and entered into a computer database by drug item number. These figures are captured on the subject firm's "NDC Audit Item Inventory Detail" report, a computer-generated report which, among other internal data, captures a complete, daily perpetual inventory of purchases and distributions of a particular controlled substance by date range (ENCLOSURE #9).

A random selection of several purchases were taken from the "NDC Audit Item Inventory Detail" report, and compared against the original source document/purchase invoices for accuracy. No discrepancies were noted. These records were maintained in accordance with the requirements set forth in Title 21 C.F.R. 1304.22(b).

INVESTIGATIVE NOTE: It should be noted that although the subject firm's drug distribution warehouse has computerized access to the "NDC Audit Item Inventory Detail" report, in order to compare this report against the original source document/purchase invoices, the investigators had to travel to the subject firm's corporate headquarters located at the RIDC Industrial Park, 101 Kappa Drive, Bldg. III, Pittsburgh, PA 15238. All purchases are a function of a centralized purchasing unit base at the subject firm's corporate headquarters.

On December 2, 2014, the investigators reviewed these records with HART. No discrepancies were found.

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Drug Enforcement Administration

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 8 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

INVESTIGATIVE NOTE: It should be noted that the subject firm submitted a written request for authorization for central recordkeeping for the purchase records to be physically stored at its corporate headquarters during the cyclic investigation conducted in 2011 under file number [REDACTED]

Sales/Distribution Records:

Since HBC is a division of Giant Eagle Supermarkets, its sole customer base is 220 Giant Eagle pharmacies located throughout PA, W.VA, and OH. Sales are initiated at the store level and are computer-generated from the individual store and transmitted to the subject firm on a daily basis. These computer-generated invoices capture information such as pharmacy location, DEA number, date of distribution, drug, strength and quantity sold (ENCLOSURE #8). These distribution transactions are captured on the subject firm's "Item Invoice Report" which documents daily distributions, within a specified date range, of each particular controlled substance to all customers. These records were maintained in accordance with the requirements set forth in Title 21 C.F.R. 1304.22(b).

Damaged/Returned Items:

There were no returned items noted during the audit period. The subject firm utilizes Capital Returns as its reverse distributor in order to destroy controlled substances. There were no destructions of controlled substances noted during the audit period.

7. ARCOS

Prior to conducting the onsite inspection, DI Sousa reviewed an ARCOS print out of the pre-selected controlled substances to be audited. ARCOS reports are current. However, there were was an ARCOS Error Report which indicated there were 490 lines of errors of NDC codes reported. DI Sousa telephoned Jim Cornwell, Giant Eagle Purchasing Manager, and advised him of these errors. Cornwell stated that he would research the correct NDC codes and transmit a corrected report to ARCOS. The information contained in ARCOS was utilized to verify purchase information supplied by the subject firm during the audit period. No discrepancies were noted.

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Drug Enforcement Administration

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No. [REDACTED]	2. G.D.P. Identifier [REDACTED]
	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 9 of 16		
5. Program Code	6. Date Prepared 12-03-2014	

8. SECURITY

HBC SERVICE COMPANY is the sole occupant of a 305,000 square foot warehouse, constructed of steel reinforced poured concrete, concrete block, and steel. This warehouse is located within the Meadowlands Industrial Park, a light industrial park in rural Washington County, PA. A sign at the entrance to the property identifies the tenant as HBC Service Company. There is no signage that would indicate the presence of a company involved in the distribution of controlled substances or List I chemicals. The subject firm operates six days per week, 24 hours per day, in three 8-hour shifts. There are approximately 250 warehouse employees working varied hours. Of these personnel, only twelve people have routine access to controlled substances, and an additional forty-five persons have routine access to non-controlled pharmaceutical drugs and List I chemicals.

A visual inspection of the facility revealed strategically-placed passive infrared motion detectors throughout the entire facility. All external doors and internal doors leading to the warehouse are substantially-constructed steel fire doors. All external doors possess balanced magnetic contact alarm switches. All internal/external warehouse doors are accessed via electromagnetic locks, which are activated via a key fob device. These devices are programmed to allow access to only authorized persons to secure areas of the warehouse. In addition, these devices allow the subject firm to identify the date and time of employee ingress and egress to the warehouse and secured portions of the warehouse.

The main visitor's entrance is protected by a double set of steel reinforced glass double doors. Once a visitor gains entrance into the vestibule area, a receptionist screens all visitors and then releases an electromagnetic lock allowing entrance into the administrative office section of the facility. All visitors are identified and must sign a visitor's log. No visitors are left unescorted.

Glass break sensors are located in all rooms with exterior windows. There are forty strategically placed surveillance cameras that are positioned both inside and outside the warehouse facility. These cameras surveil the

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Drug Enforcement Administration

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 10 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

parking lot, the employee entrance, shipping and receiving doors, and all areas of the warehouse. The video surveillance is stored on site for a period of 30 days, and is archived for a longer period of time at corporate headquarters. The exterior of the warehouse is illuminated from dusk to dawn by industrial grade security lighting.

All controlled substances are stored in a steel cage measuring approximately 30' width x 40' depth x 22' height. The walls and ceiling of the cage, along with cage doors, are constructed of #10 gauge steel mesh fabric. There is one man door, one forklift gate, and one small tote-sized access door to the cage. Each is equipped with a balanced magnetic contact alarm switch and lock. The cage is also equipped with four strategically-placed passive infrared motion detectors. There are also three video surveillance cameras located within the Schedule III through V controlled substance cage. The cage possesses an independently-zoned alarm keypad to activate and deactivate the cage alarm independently from the rest of the warehouse. All elements of this cage meet the requirements specified in 21 CFR 1301.72(b)(4).

The Schedule III through V controlled substances security cage is located in a secure and segregated portion of the warehouse, known as the pharmacy section. This secure and segregated section of the warehouse occupies 12,000 square feet. In addition to the three security cameras located within the controlled substance cage, there are sixteen security cameras located within the entire pharmacy section, and an additional four security cameras monitor the exterior perimeter of the pharmacy room. This portion of the warehouse also possesses an independently-zoned alarm keypad to activate and deactivate an alarm independently from the rest of the warehouse.

All HBC team members with access to the cage or those involved in handling the controlled substances undergo required background checks. KUCHTA advised that before an employee is hired, a criminal history background check is conducted. He stated that the firm has a "zero tolerance" policy with respect to employee pilferage, which means that an employee caught stealing merchandise is immediately terminated from employment. According to the information provided by ROGOS, the employee screening process and

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Drug Enforcement Administration

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 11 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

associated security measures are in compliance with the regulations set forth in Title 21 CFR Parts: 1301.76, 1301.90, 1301.92 and 1301.93.

The subject firm's electronic security is monitored by Sonotrol Security Company. ROGOS advised the investigators that when an alarm sensor is activated in the firm, a signal is transmitted to Sonotrol, who then notifies the South Strabane Township Police Department, located less than five minutes from the firm. After the police department is notified, Sonotrol will call a representative from the subject firm. According to ROGOS, the firm has not had any break-ins or robberies. When an alarm is activated, an audible alarm can be heard throughout the warehouse.

ROGOS stated that, in the event of a power outage, the firm's electronic security is maintained through a battery backup system.

The cage inside the pharmacy room that contains the controlled substances remains locked at all times when not in use. It is permissible for the cage to be unlocked when in use as long as it is being monitored by the coordinator or a member of the management team. Keys to unlock the cage and the alarm activation/deactivation codes are in possession of the HBC operation's management team only.

Prior to a delivery truck arriving or departing from the warehouse facility, exterior mounted video surveillance cameras are viewed at a terminal located in the pharmacy warehouse to ensure there are no unknown persons or vehicles near the facilities loading docks. When a delivery truck is backed into the loading dock platform there is a security device that shrouds the rear of the truck making it impossible to gain access to the pharmacy warehouse room from the building's exterior. Once the vehicle is locked in place, the supervisor closes the exterior door before allowing the driver to enter. The supervisor ensures the holding area is secure and then allows the driver into the holding area. Once the exterior door is closed behind the driver, the supervisor will release the holding area door to allow the driver inside the pharmacy warehouse.

The supervisor will then unlock the padlock that secures the grade-level garage door. If the delivery contains controlled substances, the supervisor unlocks the cage so the product can be taken directly into the

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 12 of 16		
5. Program Code	6. Date Prepared 12-03-2014	

protected area. The reconciliation takes place inside the cage by the receiver, but excludes the driver. If the driver arrives for pick up, the supervisor follows the same steps indicated for the receiving process before allowing the driver access inside.

On December 2, 2014, the investigators tested all aspects of the subject firm's electronic security. The security was operational and deemed adequate.

KUCHTA informed DIs Sousa and Conlon that the following individuals have routine access to HBC's controlled substance storage cage (ENCLOSURE #10):

<u>NAME</u>	<u>SSN</u>	<u>DOB</u>
Jeff BIDDLE	[REDACTED]	[REDACTED]
William CUDIPP	[REDACTED]	[REDACTED]
William HEVIA	[REDACTED]	[REDACTED]
Steven POST	[REDACTED]	[REDACTED]
Matt ROGOS	[REDACTED]	[REDACTED]
Justin BAER	[REDACTED]	[REDACTED]
Brain BECQUET	[REDACTED]	[REDACTED]
Christy HART	[REDACTED]	[REDACTED]
Richard POLAND III	[REDACTED]	[REDACTED]
John VINSKI	[REDACTED]	[REDACTED]
Becky WALTON	[REDACTED]	[REDACTED]

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 13 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

A NADDIS check revealed no derogatory information on these individuals. There is a pool of 45 additional employees who have access to the non-controlled pharmaceutical drugs contained in the pharmacy warehouse, located outside of the Schedule III through V controlled substance cage. These employees undergo the same background checks and have the same level of security as those individual who have access to the controlled substances. When the need arises, on a short term basis, such as an unscheduled illness, a temporary replacement employee maybe transferred from non-controlled drugs to controlled drugs.

9. DUE DILIGENCE

HBC Operations Manager Matt ROGOS advised the investigators that, unlike other drug distributorships, HBC has only one customer, Giant Eagle Pharmacies. All orders for controlled substances are made via dedicated Giant Eagle pharmacy computer systems, whereby only pharmacists can place electronic orders for Schedule III through V controlled substances. ROGOS advised that, at the store level, the pharmacist placing the order may not be the pharmacist on duty when the order is received. When orders are received at the pharmacy, it is the responsibility of a pharmacist and a pharmacy technician to enter controlled substances into the pharmacy inventory.

During the subject firm's last scheduled investigation DI Conlon provided ROGOS with the cite from Title 21 CFR section 1301.74(b) which states, "the registrant shall design and operate a system to disclose to the registrant suspicious orders of controlled substances. The registrant shall inform the Field Division Office of the Administration in his area of suspicious orders when discovered by the registrant. Suspicious orders include orders of unusual size, orders deviating substantially from normal patterns and orders of unusual frequency."

ROGOS advised, that currently, HBC and/or Giant Eagle, Inc., its parent company, has no computerized software system to indicate that an order may be suspicious. ROGOS advised that if a Giant Eagle pharmacy were to receive unusually high orders of controlled substances from HBC, deviating from other stores, it would be noticed at the Giant Eagle, Inc. headquarters level. ROGOS stated that he will bring this issue to the

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 14 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

attention of Greg CARLSON and Kim REMAS of Giant Eagle's headquarters Controlled Substance Purchasing Unit.

10. MEETING WITH MANAGEMENT

On December 2, 2014, Diversion Investigators Sousa and Conlon meet with ROGOS and KUCHTA to discuss the results of the audit. During this meeting, the investigators advised that both recordkeeping and security are in full compliance with the requirements set forth in Title 21 CFR.

11. VERIFICATIONS

On December 3, 2014, DI Sousa contacted the Giant Eagle Pharmacy located in Robinson Township (*Settlers Ridge*) to verify an order shipped by HBC SERVICE COMPANY, on October 24, 2014. The pharmacist on duty confirmed the purchase of controlled substances from the HBC SERVICE COMPANY.

On December 3, 2014, DI Sousa contacted the Giant Eagle Pharmacy located in Squirrel Hill to verify an order shipped by HBC SERVICE COMPANY, on November 7, 2014. The pharmacist on duty confirmed the purchase of controlled substances from the HBC SERVICE COMPANY.

ARCOS records were utilized to verify purchases of controlled substances by HBC SERVICE COMPANY.

No further action is required at this time. This case is closed.

INDEXING

1. HBC SERVICE COMPANY [REDACTED]

(Re: [REDACTED] 12/2014) The subject of a regulatory investigation which resulted in no violations or discrepancies uncovered.

2. ROGOS, Matthew [REDACTED]

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	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 15 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

(Re: [REDACTED] 12/2014) Employed as Operations Manager for HBC SERVICES (DEA # RH0389773). Access to controlled substances.

3. KUCHTA, Robert [REDACTED]

(Re: [REDACTED] 12/2014) Employed as Inventory Manager for HBC SERVICES (DEA # RH0389773). Access to controlled substances.

4. BIDDLE, Jeff [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773). Access to controlled substances.

5. CUDIPP, William [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773). Access to controlled substances.

6. HEVIA, William [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773). Access to controlled substances.

7. POST, Steven [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773). Access to controlled substances.

8. BAER, Justin [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773). Access to controlled substances.

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Drug Enforcement Administration

REPORT OF INVESTIGATION <i>(Continuation)</i>	1. File No. [REDACTED]	2. G-DEP Identifier [REDACTED]
	3. File Title HBC SERVICE CO, 601A Meadowlands Blvd Washington, PA	
4. Page 16 of 16	6. Date Prepared 12-03-2014	
5. Program Code		

9. BECQUET, Brian [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773).
Access to controlled substances.

10. HART, Christy [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773).
Access to controlled
substances.

11. POLAND, Richard, III [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773).
Access to controlled substances.

12. VINSKI, John [REDACTED]

(Re: [REDACTED], 12/2014) Employed at HBC SERVICES (DEA # RH0389773).
Access to controlled substances.

13. WALTON, Becky [REDACTED]

(Re: [REDACTED] 12/2014) Employed at HBC SERVICES (DEA # RH0389773).
Access to controlled substances.

Related Files Continued: [REDACTED] [REDACTED]

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